HUMAN RIGHTS

United Nations Training Course on International Norms and Standards in the Field of Human Rights

Proceedings

Moscow (USSR), 27 November-1 December 1989

UNITED NATIONS

World Campaign for Human Rights

HR/PUB/90/6

Centre for Human Rights
Geneva

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United Nations
New York, 1990

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HR/PUB/90/6

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Introduction

A United Nations Training Course on International Norms and Standards in the Field of Human Rights was held in Moscow, USSR, from 27 November to 1 December 1989. The course was organized by the United Nations Centre for Human Rights in co-operation with the United Nations Association of the USSR and the Moscow State Institute for International Relations, with the support of the Government of the USSR. It formed a part of the advisory services and technical assistance programme of the Centre for Human Rights.*

Experts from various international human rights bodies and academics presented topical human rights issues followed by discussions with lively audience participation (for the programme of the course, see annex I). Mr. Jan Martenson, Under-Secretary-General for Human Rights, and Mr. J. Kolossov, Chair of International Law at the Moscow State Institute for International Relations, co-chaired the meetings.

Observers were invited by the United Nations Association of the USSR and the Government of the USSR; representatives of a number of non-governmental organizations also took the floor during the discussions following the presentations of the panellists.

The course consisted of an official opening session, six working sessions, and a closing session. The working sessions addressed respectively:

I. The international system for the protection and the promotion of human rights;

II. International human rights standards and their application in national legislation: issues and tasks;

III. International monitoring of compliance with obligations of States for the implementation of human rights instruments;

IV. International law and the mechanism of protection of the rights of persons at the national level;

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* Established by the United Nations General Assembly in resolution 926 (X), 1955.

V. International standards in the field of civil and political rights (with particular emphasis on the right to freedom of movement, the right to freedom of thought, conscience and religion, the right to peaceful assembly and the right to strike);

VI. International protection of refugees' rights and protection of human rights in non-international conflict.

Opening session

In his opening remarks, Mr. R. S. Ovinnikov, Rector of the Moscow State Institute for International Relations, emphasized the significance of the training course in a time of considerable legislative evolution in the USSR. He pointed out that Soviet legislators, in their activities, increasingly used international law as the yardstick, and that the process of *perestroika* and *glasnost* had brought about significant changes in the Soviet understanding of human rights. While indicating that a vigorous and multifaceted process aimed at increasing awareness of human rights was well under way and already reflected in new legislation, he cautioned that the process would not be a fast one.

Mr. Komplektov, Deputy Minister of Foreign Affairs, praised the developments in the international dialogue on human rights: this dialogue would provide a stimulus to human rights in the Soviet Union. He recalled that the consensus that emerged from the Conference on Security and Cooperation in Europe follow-up meeting in Vienna had provided the impetus for many States, including the Soviet Union, to bring their (human rights) legislation into line with international standards. In this context, he acknowledged that progress in the Soviet Union in this area was not being made as fast as might be desirable; nonetheless, the authorities "were overcoming the hangovers of the past". Mr. Komplektov pointed out that quick progress on human rights issues was obstructed by lack of knowledge about the relevant instruments—to improve the human rights situation there was a need to spread knowledge of human rights and to foster awareness of citizens' rights. The Ministry of Foreign Affairs had taken a significant step in this direction by publishing a compilation of most of the relevant international human rights instruments.

Mr. O. Khlestov, Vice-Chairman of the United Nations Association of the USSR, stressed that the development of the understanding of human rights and individual freedoms was among the primary objectives of his association. Like Mr. Komplektov, he underlined that it was imperative for international norms and standards in the field of human rights to be accessible and known to everyone, and expressed his hope that the training course would contribute to the dissemination of human rights information in the USSR.

Mr. J. Martenson, Under-Secretary-General for Human Rights, welcomed recent far-reaching changes in international relations and spoke of a renewal of the spirit that had inspired the founding fathers of the United

Nations. The cease-fire in the Iraq-Iran conflict, the accord on Afghanistan and the elections in Namibia, all were testimony to the United Nations enhanced role in solving regional conflicts. He emphasized that the Soviet Union's commitment to the United Nations and its organs was encouraging and welcomed Soviet support for the human rights programme, which had recently been demonstrated, *inter alia*, by Soviet ratification of the Convention against Torture and acceptance of the compulsory jurisdiction of the International Court of Justice. Looking ahead, he underlined that Soviet ratification of the Optional Protocol to the International Covenant on Civil and Political Rights, which was under active consideration, would be a most significant symbol of the USSR's commitment to human rights. This commitment was already given tangible expression through the legislative reforms currently under way, e.g. through the reform of the Code on Criminal Procedure and the strengthening of the independence of the judiciary.

Mr. Martenson highlighted the activities of several international human rights bodies acting under numerous United Nations and treaty mandates. He emphasized that the larger the adherence to international human rights instruments, the broader the scope of the monitoring and control mechanisms, and in this context referred to the increasing number of complaints received by the Centre for Human Rights under the principal communications procedures. While this was a felicitous development, it could not, however, detract from the fact that a strong national commitment, vigorous local United Nations associations and informed public authorities were the backbone of human rights implementation. The United Nations programme for advisory services and technical assistance in the field of human rights was performing an extremely useful role in this respect, and numerous training courses and workshops had been organized by the Centre for Human Rights in recent years. Simultaneously, the Centre had greatly increased its efforts to disseminate information material on human rights worldwide, which had culminated in the launching of a World Public Information Campaign for Human Rights.

Mr. Martenson concluded that while today's priority was on the universal implementation of the international human rights instruments in place, standard setting and implementation alone were not sufficient—information was essential as well. Thus, he referred to a triangular relationship between the vital elements of legislation, implementation and information. Finally, he announced plans to convene, in 1993, a World Conference on Human Rights, which would attempt to re-conceptualize human rights and explore new directions in human rights for the 1990s and beyond.

Mr. Y. Kashlev, First Assistant to the Deputy Foreign Minister and formerly USSR Ambassador to the Conference on Security and Cooperation in Europe, highlighted legislative developments in the Supreme Soviet focusing in particular on draft legislation governing (*a*) the right to

free exit from and free entry into the Soviet Union for Soviet citizens, (*b*) the freedom of the press, (*c*) freedom of religion and freedom of conscience and (*d*) freedom of social associations of Soviet citizens. International standards, such as the provisions of the International Covenant on Civil and Political Rights and the documents adopted at the Vienna meeting of the Conference on Security and Co-operation in Europe, were now widely accepted by legislators and played a prominent part in legislative debates. Criticizing past practices, Mr. Kashlev affirmed that the Soviet Union had never fully complied with international human rights standards, such as the right to exit and entry, primarily because of the absence of clear legislation. He expressed the hope that by the time of the next Conference on Security and Co-operation in Europe meeting in Moscow in 1991, the USSR would "put its house in order as far as human rights are concerned", as this was in the country's best interest.

I. The international system for the protection and the promotion of human rights

Mr. C. Tomuschat (Member, International Law Commission) provided a historical background of the efforts to secure and promote the observance of human rights since the adoption of the Universal Declaration of Human Rights. He remarked that protection of human rights as a matter of international concern was a relatively new concept. The Universal Declaration, adopted in December 1948, remained the cornerstone of the protective system. While it was hard to maintain that it had become binding on all States as customary international law, it was undeniable that it had influenced the content of many constitutions and still served as a yardstick in the discussion of human rights legislations. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights set further complementary and interrelated standards for the international protection of human rights.

Among the principal features of the international system for human rights protection, Mr. Tomuschat singled out (*a*) the principle of universality, the sole major challenge to which in recent years had come from the Islamic Republic of Iran; (*b*) the principle of non-discrimination; (*c*) the widely accepted parity between civil and political and social and economic rights; and (*d*) the notion that the rights laid down in the International Covenant on Civil and Political Rights must be applied strictly, without a margin of discretion, whereas the rights contained in the International Covenant on Economic, Social and Cultural Rights were programmatic and could be implemented by States with some degree of flexibility. Mr. Tomuschat pointed out that while standard-setting had not quite come to an end, emphasis should be given to the domestic implementation of the Covenants, both in the field of civil and political rights and in the field of economic and social rights. The international mechanisms in place could not directly give effect to international human rights, in the sense that the decisions of the supervisory and implementing bodies such as the Human Rights Committee were not enforceable. A strong national commitment to implement "Covenant rights" was thus necessary, which included the ability, for individuals, to invoke international human rights standards in domestic courts.

Mrs. H. Klein-Bidmon (Secretary, Human Rights Committee) highlighted the principal procedural aspects of the existing international system for protection of human rights. Three categories of procedures could be dis-

tinguished: the procedures of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the procedures established under the two Covenants and other human rights conventions, and the activities carried out by the United Nations Secretariat in the field of advisory services, technical assistance and information. With respect to the first category, there had been a gradual shift to a country- and theme-oriented approach towards examination of human rights violations by working groups and special rapporteurs. The confidential communications procedure governed by ECOSOC resolution 1503 (XLVIII) of 1970 deserved particular attention, as the year 1989 had witnessed a considerable increase in the number of communications addressed to the United Nations under this procedure. Concerning the treaty-based procedures, those in force were the individual complaints procedures established under the Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture. The procedure under the Optional Protocol, in particular, had become an effective mechanism of examination of individual complaints over the years; since the Committee's procedures were becoming gradually better known due to better dissemination of information on human rights, the Committee was experiencing a large increase in the number of communications received.

Among the Secretariat activities, Mrs. Klein-Bidmon singled out expert advice provided to the various human rights bodies, working groups, special rapporteurs, etc., dissemination of information about human rights, provision of advisory services and technical assistance to Governments requesting such assistance, and research on issues under consideration by the Commission on Human Rights or the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Mr. A. de Zayas (Communications Section, Centre for Human Rights) provided a statistical overview of the individual communications procedures and the work of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture. Communications which satisfied a number of criteria for registration by these treaty-based bodies were channelled into the relevant procedure. The work of the Human Rights Committee, in particular, had become a success story despite limited Secretariat services. Thus, since its establishment in 1976, the Committee had registered some 400 communications under the Optional Protocol and adopted "final views" (decisions on the merits) in 100 cases. This compared favourably with the record of regional human rights bodies such as the European Court of Human Rights, which in some thirty years of activity had adopted 200 judgements. With respect to implementation, there was cause for optimism, considering that in several cases States parties had released prisoners after a final Committee decision requesting their release; in other cases compensation had been paid to the victims. More signifi-

cantly, a number of States parties had honoured their treaty obligations by amending legislation found to be incompatible with the provisions of the International Covenant on Civil and Political Rights.

Discussion

During the discussion, one participant, affirming that "where there is no property, there are no human rights", spoke of the necessity to anchor the right to property firmly in international human rights instruments. Mr. Tomuschat stated that the right to property was among the most controversial issues in international law. While two regional instruments (the First Additional Protocol to the European Convention on Human Rights and the African Charter on Human and Peoples' Rights) protected the right to property, there was no broad international consensus on its protection, although, of course, article 17 of the Universal Declaration of Human Rights provides for the right to property.

One participant criticized the drafting of article 4 of the International Covenant on Civil and Political Rights, which deals with the right to derogate from certain international human rights standards in time of national emergency, and pointed out that both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights contained a large number of "rubber clauses". It could be assumed that many States ratified the Covenants because such clauses gave them a certain discretion in the implementation of the relevant instrument.

Mr. Tomuschat replied that it was not possible to guarantee human rights as absolute rights which did not permit of any restriction at any point in time; some restrictions might be necessary for the public good or for the purpose of maintaining public order. He asserted that article 4 of the International Covenant on Civil and Political Rights had been carefully drafted and did not give States parties a blank cheque in times of public emergency, since the provision contained the principle of proportionality and imposed on States the duty to confine any derogation of human rights to the extent "strictly required by the exigencies of the situation".

II. International human rights standards and their application in national legislation: issues and tasks

Mr. Kartashkine (Institute of State and Law, Soviet Academy of Sciences) noted that the principles and laws governing international human rights protection originated from often almost irreconcilable points of view and philosophies. He invited the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to contribute to the process of *rapprochement* between national human rights legislation and international instruments by, for instance, interpreting more specifically the substantive provisions of the two Covenants. More specific meaning and scope to the provisions of the Covenants needed to be given. The supervisory bodies had been perhaps too careful in the past, keeping their comments on, and their interpretation of, States parties' compliance with the Covenants too vague. Mr. Kartashkine further addressed the desirability of creating a High Commissioner for Human Rights within the United Nations Secretariat framework.

Concerning recent human rights developments in the USSR, Mr. Kartashkine noted that considerable activity was now under way so as to bring domestic laws into line with international obligations. Thus, labour, pension, criminal and economic legislation were being redrafted or revised. Among the primary goals for the current legislature he singled out efforts (*a*) to anchor the right to freedom of conscience and to hold political opinions in the Constitution; (*b*) to guarantee non-discrimination in every aspect of public life; (*c*) to protect the right to freedom of expression in stronger terms—the recent law on censorship was a significant step ahead; to reword article 152 of the Constitution, which was necessary so as to protect more forcefully the right to freedom of expression; and (*d*) to incorporate into the Constitution the right freely to leave and return to one's country. As previous speakers had noted, legislation on this issue had been approved on first reading by the Supreme Soviet. Mr. Kartashkine further noted that legislation on social associations of Soviet citizens was under consideration. It was also necessary to review legislation on demonstrations and meetings, as the existing laws did not correspond to the constitutional provision which guaranteed the right to freedom of assembly without restriction. Finally, it was noticeable that the judicial system and the system of appeals to the courts in respect of alleged unauthorized or illegal acts of officials was under review, and a new appeals system was to enter into force on 1 January

1990. Like previous speakers, Mr. Kartashkine attached great importance to what he called the "pluralism of property". It was necessary to legislate on various forms of property, and draft legislation recognizing the right to property was already under consideration.

Mr. Kartashkine suggested that the International Covenant on Civil and Political Rights should be applicable in the entire territory of the Soviet Union, thereby implying that the Covenant's provisions should be directly enforceable. In this connection, he emphasized that it was important for the USSR to ratify the Optional Protocol to the Covenant.

Mr. F. Pocar (Rapporteur, Human Rights Committee) said that it was possible to look at the problem of national application of international human rights standards from two angles: the definition of international standards and the definition of implementation. Even though the Universal Declaration of Human Rights is not binding, it had had an undeniable impact on international standards and their implementation. Mr. Pocar stressed the usefulness of periodic examination of country reports by the supervisory bodies in the process of implementation of international norms. The experience gained over time by the members of the supervisory bodies could be used as an indicator of the scope of implementation of the international instruments by States parties. Mr. Pocar pointed to the General Comments adopted by the Human Rights Committee on various provisions of the International Covenant on Civil and Political Rights, which were useful in that they guaranteed a certain degree of uniformity in the application of the relevant provisions. Attention should be paid to the *definition* of international norms and standards, since their domestic application could take place at different levels.

In respect of the domestic implementation of international standards, it was clear that the term "implementation" always required both positive and negative measures. Thus, if the implementation of economic and social rights frequently called for affirmative action on the part of States, implementation of civil and political rights sometimes called for negative measures. In short, an *obligation of result* was imposed on States parties—and this obligation was of normative character. States were under an *obligation* to adopt laws that were compatible with the international standards. Moreover, it was imperative to provide citizens with the possibility to avail themselves of legal remedies, since the only effective guarantee against human rights violations was the availability of judicial remedies.

Mr. T. A. Johnson (Counsellor for Legal Affairs, U.S. Permanent Mission to the United Nations Office at Geneva) challenged the notion that the process of standard-setting was basically concluded. On the contrary, this process, in his opinion, continued unabated. He suggested that attention should now focus on the implementation of the existing instruments. Tracing recent legislative developments in United Nations human rights bodies, he

indicated that Western States had often felt that they were engaged in "damage control" exercises in respect of the drafting of new human rights instruments. Mr. Johnson argued that many of the new instruments tended to dilute, undermine or divert attention from some of the existing ones. Currently, some 15 to 20 human rights instruments were in preparation; insufficient attention was devoted to the drafting of these new instruments, and they used up both valuable time and resources of an already limited Secretariat staff. In this context, he referred to United Nations General Assembly resolution 41/120, adopted in 1986 upon an Australian initiative, which called on Member States to give priority to the implementation of existing international standards and established guidelines for future drafting. This resolution had been widely honoured in the breach since its adoption.

Mr. Johnson argued that the Commission on Human Rights had in recent years abdicated some of its responsibilities in the drafting process and had forwarded draft instruments to the Economic and Social Council and the United Nations General Assembly, without thorough consideration. The guideline in resolution 41/120 that "new instruments should be sufficiently precise" was frequently problematic—thus, 10 years of debate on the draft convention on the rights of migrant workers and on the declaration on the rights of minorities had failed to produce agreement on the definition of the principal subjects involved.

Some guidance for a redirection of the United Nations human rights programme could be found in the Council of Europe's *Ad Hoc* Committee of Experts to Exchange Views on Standard-Setting activities of the United Nations in the field of Human Rights, which had discussed a possible moratorium in the human rights law-making process at the United Nations level on the grounds that the current proliferation of instruments does not necessarily improve the human rights situation in the world. At the same time, efforts should be made to strengthen the existing system and to come to grips with the financial crises of some treaty bodies without disregarding applicable treaty provisions. In the latter context, Mr. Johnson suggested that one way of meeting financial "crunches" would be to refrain from creating treaty bodies and to concentrate financing on the existing more important treaty bodies, such as the Human Rights Committee.

In respect of the actual drafting process of new instruments, Mr. Johnson criticized the lack of a systematic approach to determine what was needed most in the field of human rights and the continuing attempts to draft human rights instruments only for particular categories of people. All too often, ideas were pursued by a single member of the Sub-Commission or the Commission on Human Rights for narrow political reasons without broad international support or adequate preparatory work before commencement of drafting. Insufficient actual drafting of documents was carried out by the Sub-Commission as a whole, and the Commission could be faulted

for not going into the details of the drafting of the texts put before it by the Sub-Commission. There was clearly a need for quality control in the form of a technical review for consistency with existing instruments and so on. On the positive side, Mr. Johnson welcomed the increasing resort to small drafting groups within working groups, an improvement in the quality of the legislative history of each instrument set forth in the reports submitted by the various working groups, valuable contributions by non-governmental organizations to the drafting process, and greater expertise among government representatives in the working groups. Mr. Johnson maintained that a balance is needed between diplomats/lawyers and technical specialists and that Foreign or Justice Ministry lawyers, perhaps accompanied by specialists, is often the best solution.

During the discussion, one participant enquired about the relationship between international and domestic law, about the most suitable means of ensuring the primacy of international over domestic law and about how to deal with collisions between domestic and international law. In this context, he referred to article 6 of the United States Constitution and the application of this provision by the United States Supreme Court, as well as to article 55 of the French Constitution. Mr. Pocar replied that his preference was for a system in which the priority of international treaties was clearly laid down in the Constitution, whether the colliding legislation was prior or subsequent to the treaty.

Mr. Johnson explained the practice of United States courts in cases of alleged conflict between international treaty and Federal obligations; recent case law demonstrated the extent to which United States courts sought to avoid any conflict between international treaty and Federal obligations. The United States Constitution ensures that a ratified international treaty becomes the highest law of the land.

III. International monitoring of compliance with obligations of States for the implementation of human rights instruments

Mrs. R. Higgins (Member, Human Rights Committee) argued that monitoring of human rights implementation was an alternative essential technique of human rights enforcement, a useful building block of human rights compliance. Monitoring, in fact, was at the heart of implementation. Some States (for example the United States) had legislation which tied military and economic aid to satisfactory human rights performance; many other States did not have this kind of legislation, and it was difficult for them to ascertain whether their aid acted as a lever for better human rights performance.

According to Mrs. Higgins, it was useful to distinguish between monitoring in its internal aspects and monitoring in its external aspects. In respect of internal aspects of monitoring, she stressed that it was important, for purposes of effective compliance, that there be adequate internal communication. Article 19 of the International Covenant on Civil and Political Rights, which protected the right to freedom of expression, was a key provision in this respect. The text of the Covenant had to be published and disseminated widely, and the Human Rights Committee, in the course of examination of State reports, routinely asked State representatives about dissemination of the Covenant. It was equally important that human rights be taught at schools and in universities.

Mrs. Higgins emphasized that the possibility of judicial review in cases of alleged human rights violations was the best means of guaranteeing effective compliance with international obligations. This, of course, required an independent and knowledgeable judiciary, an issue the Human Rights Committee was particularly interested in. Mrs. Higgins underlined that it would be useful to check legislative activity through some formal machinery to ensure compliance with international obligations, rather than leaving monitoring to civil servants on an *ad hoc* basis.

Concerning external aspects of monitoring, Mrs. Higgins referred to the international political aspects of monitoring, especially in the United Nations Commission on Human Rights, which was a highly politicized body and at times selective in what it did. On the other hand, the depoliticized process of examination of State reports by the Human Rights Committee

was the key to the success of that body. The Committee on the Elimination of Racial Discrimination and now the Committee against Torture had developed a similar approach to their mandates. The existence of guidelines on the submission of State reports and the pre-selection of key issues to be addressed by States parties in the examination of second and third periodic reports had proven to be useful. They were designed to facilitate a real across-the-table dialogue between the Committee and the State party concerned. Finally, Mrs. Higgins addressed the usefulness of monitoring through individual communications procedures, for example the Optional Protocol procedure. She welcomed the information that the USSR was actively considering ratification of the Optional Protocol and argued that every country should accept some machinery of this sort, be it a universal or a regional procedure.

Mr. R. Myullerson (Member, Human Rights Committee), referring to the internal aspects of monitoring mentioned by Mrs. Higgins, admitted that historical experience showed that the most severe violations of human rights had occurred in countries which hitherto had called themselves socialist countries, as well as in States under fascist domination. He deplored the fact that in all spheres of international law, there was a progressive body of law which was not implemented due to considerations of political expediency. Until recently, the Soviet Union had been extremely reserved in its approach towards monitoring and implementation mechanisms in the field of human rights, but this attitude was disappearing. The role of implementation and monitoring mechanisms in the USSR was growing, and the drawbacks of past policies mandating that certain rights were to be granted in the name of socialist development were being recognized. The primary goal was human rights and not social order—in Mr. Myullerson's words, "socialism must be called upon to ensure human rights".

Mr. Myullerson postulated that current social and economic problems in the USSR were due to a large extent to the fact that at certain times in the past, civil and political rights had been widely violated. Today, the growing importance of the "human factor" in Soviet society was widely recognized at the international level, for example in ECOSOC or in the General Assembly.

Recapitulating the major elements in the examination of periodic State reports by the Human Rights Committee, Mr. Myullerson praised the active and constructive role of non-governmental organizations in co-operating with the Human Rights Committee on reports. While all the members of the Committee had their independent sources of information, the information conveyed by some non-governmental organizations prior to the examination of reports was particularly useful. Room for improvement of the Committee's procedure existed, however: thus, it was worth considering a recent proposal to formalize the Committee members' final observations at the

conclusion of the discussion of each report by upgrading them to "final Committee remarks".

Mr. Myullerson concluded by praising the effectiveness of the individual complaints procedure under the Optional Protocol. The Committee had a rather good record of obtaining compliance with its decisions, and this was a source of satisfaction.

Discussion

One participant indicated that previous speakers had failed adequately to assess the effectiveness of the implementation mechanisms of the Human Rights Committee and the Commission on Human Rights. It was known that the Commission's or Sub-Commission's special rapporteurs were not always given the appropriate means for carrying out their mandates. Further, there was the problem of non-compliance by States parties with the decisions of the human rights treaty bodies. He nevertheless supported the idea of Soviet ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and called on other States to join the USSR in accepting the compulsory jurisdiction of the International Court of Justice.

Another participant gave an outline of the activities of her organization. In her opinion, *glasnost* was often no more than a fashionable slogan, while individuals who violated human rights continued to go unpunished and abuse of psychiatry continued. She deplored the fact that human rights was not taught at schools. In reply Mr. Kolossov assured participants that the Soviet Human Rights Committee would seriously consider all complaints brought before it.

Mrs. Higgins expressed surprise at the constant reference of her Soviet colleagues to the Universal Declaration of Human Rights. The relevant document for implementation purposes was the International Covenant on Civil and Political Rights. Taking up her point, one participant argued that realization of civil and political rights was a weak point in the USSR. Referring to the "third basket" of the final accord of Helsinki Conference on Security and Co-operation in Europe, which addressed human rights issues, he claimed that Soviet citizens had received a "third basket without bottom". Each citizen should know about what he or she could do to contribute to human rights implementation, but such knowledge was not yet widespread.

Mr. Blishenko spoke in support of the communications procedure governed by Economic and Social Council resolution 1503. It was true that, in the past, there had been attempts to diverge from the use of this procedure, but the USSR should now come out in support of it.

One participant enquired about the possibility of establishing an International Court of Human Rights, which would have the power to hand down

binding judgements and have the competence to consider the totality of international law on human rights. Mrs. Higgins replied that while this was undoubtedly an interesting and appealing idea, its realization was certainly a long way over the horizon.

Mr. Khlestov opined that the international system was moving towards a period of co-operation in the field of human rights, and referred in this context to recent fruitful discussions on human rights issues in Washington between Soviet and American officials. He agreed that Soviet scholars were at times exaggerating the significance of the Universal Declaration of Human Rights and suggested that complementary forms and/or bodies which would foster the implementation process might be useful.

IV. International law and the mechanism of protection of the rights of persons at the national level

Mr. A. Eide (Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities, and Director, Norwegian Institute for Human Rights) began by pointing out that the primary responsibility for the protection and the realization of human rights continued to rest with the State. Mr. Myullerson's point that human rights were goals in themselves was essential. Constitutional safeguards were necessary: Mr. Eide pointed to article 50 of the Soviet Constitution of 1977, which guarantees the right to freedom of speech, of the press, of assembly, meetings and demonstrations. In his view, the essential role of *glasnost* and *perestroika* was to help in finding the most appropriate structure of government.

The principle of legality (Rechtsstaat) was another essential element in the mechanism of protection of the rights of persons. The State had to (*a*) respect, (*b*) protect and (*c*) fulfil the human rights of its citizens. The interpretation of article 39, paragraph 2, of the Soviet Constitution, which stipulates that "enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the State", had given rise to concern in the past; it had been said that it implied that those who did not perform their civil duties were liable to lose their human rights. This interpretation was wrong: whatever a person's attitude towards authority, he or she is entitled to respect for his or her dignity. Punitive sanctions should not go beyond what is strictly necessary and based on legislation. It was also necessary to avoid frequent resort to "rubber norms or clauses" in criminal legislation, which could be interpreted to cover a score of acts not otherwise covered by criminal legislation; and Mr. Eide welcomed the fact that many Soviet laws were being revised to eliminate such defects.

Turning to two other elements in the protective mechanism of individual rights—the issue of law enforcement agents and the judiciary—Mr. Eide pointed out that law enforcement officials had to carry out a double function: to enforce the public will as stated by the legislature and to protect the ordinary citizen. The excessive use of force by law enforcement officials continued to be a widespread phenomenon and was a cause of great concern for various United Nations human rights bodies. A competent and independent judiciary was a *conditio sine qua non* for the effective protection of human rights at the national level. Courts should be able to choose interpretations of the law which were most in harmony with international re-

quirements and standards. Both the constitutionality and the conformity of delegated legislation with international human rights standards should be subject to judicial scrutiny. Of course, it was also necessary that citizens had judicial recourse procedures available to them. Mr. Eide pointed out that the *prokuratura* in the USSR was to have a more independent, supervisory role in the future, and that some Eastern European countries, such as Poland and Hungary, had opted for an ombudsman system in protecting citizens from arbitrary administrative acts.

Concerning the protection of economic and social rights, Mr. Eide argued that it was grossly oversimplified to say that Eastern European States were more concerned about economic and social rights and Western States more concerned about civil and political rights. The USSR might be able to glean some useful models from some of the labour laws of Western European States.

Finally, Mr. Eide stressed the crucial role of non-governmental organizations in promoting and protecting human rights at the national level. Non-governmental organizations not only disseminated knowledge about human rights, but also sought to put pressure on national authorities to comply with international law and international human rights standards. The media were equally important in revealing many human rights violations.

Mr. S. Chernichenko (Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities) distinguished between consensual procedures for the protection of human rights and non-consensual procedures. The consensual procedures were hampered by weak efficiency, by duplication, financial constraints and political bias. In his opinion, it was high time to depoliticize the existing international mechanisms and the work of the United Nations bodies. In this context, he referred to the communications procedures governed by Economic and Social Council resolution 1503. This procedure, a universal one, was too politicized—perhaps it was time to eliminate it altogether and to discuss human rights violations in the open. Similarly, it was time to think about whether it might not be best to phase out the Sub-Commission in its present form, since it was too politicized for a body of independent experts. Finally, the Commission on Human Rights itself, whose work had in the past been obstructed by political confrontation, had not been created to fight endless ideological battles.

Mr. Chernichenko pointed out that recent discussions on human rights issues between Soviet and American officials had produced many useful ideas and suggestions. Thus, the system of special rapporteurs entrusted with a variety of mandates by the Commission on Human Rights might be reviewed; or a General Special Rapporteur for the Commission might be created. He supported in principle Soviet ratification of the Optional Protocol to the International Covenant on Civil and Political Rights; if all States decided

to join the Protocol, the Human Rights Committee could become the principal venue for the consideration of human rights violations.

Reviewing several points addressed by previous speakers, Mr. Chernichenko supported the idea of an ombudsman institution in the USSR. At present, many judges at the lowest levels were not qualified enough. In respect of the right to freedom of association, he argued that the USSR should adopt clear regulations governing the registration of associations; registration should be automatic unless certain narrowly circumscribed exceptions (covering, for example, racist associations) applied.

Discussion

In the course of the discussion, many participants stressed that while *perestroika* and *glasnost* have facilitated diplomatic dialogue and are contributing to a more open society, they were not always applied properly domestically. New laws had been adopted by the Supreme Soviet, and others were being discussed, but their implementation at the executive and administrative level left much to be desired. Some speakers pointed out that the meaning of *glasnost*, in the Soviet Union, did not coincide with the meaning given to this term in the West.

One participant from Kazakhstan thought that it was preferable to proceed from the principle of primacy of international law over domestic law in the absence of domestic laws guaranteeing human rights, and that judges should directly apply international law in the absence of domestic legislation. He referred to serious problems in the Central Asian Soviet Republics, such as exploitation of child labour, which was not sanctioned by any provision in the penal code, high infant mortality rates and high unemployment figures. There should be a provision in the penal code prohibiting and punishing torture and degrading treatment; currently, vague "rubber clauses" covered up the lack of such provisions. The draft legislation on the right of exit and entry was important for the Republic of Kazakhstan, as many ethnic Germans had been brought there after the Second World War, and a large number of them had left since the beginning of the year.

Another participant remarked that out of the existing international instruments in the field of human rights, the Soviet Union had ratified 14, while the United States of America had ratified only seven. This did not mean, however, that the human rights performance of the USSR was 100 per cent better than that of the United States—there was no correlation between the human rights performance at the national level and a State's participation in international instruments. It should be candidly recognized that the level of protection of human rights in the Soviet Union was still low, and that in order to improve the record, it was necessary to strengthen the rule of law

and to improve economic performance. There was also a strong case for training experts on human rights—as so often, one of the principal problems remained the lack of citizens' awareness of their rights. Contrary to previous speakers, Mr. Shestakov was sceptical of the impact of the ratification of the Optional Protocol by the Soviet Union: the Committee's final decisions could not be enforced, and the power of the Committee was insufficient.

One participant emphasized the necessity of an independent judiciary—this aspect had been neglected for a long time in the Soviet Union and was one of the major reasons for *perestroika*. Further, there was a case for scrutiny and judicial control of the activities of officials in responsible positions at the executive or government level.

Another participant warned that the number of homeless and unemployed people in the USSR had serious implications for the human rights situation. Youth unemployment was another serious problem; furthermore, there were many thousands of refugees within the country—for many of them, the loss of their home and dwelling registration entailed an indirect loss of economic and social rights.

Another participant from Kazakhstan recalled that in connection with the serious incidents that had occurred in Alma Ata, in December 1986, the Kazakhstan Public Committee on Human Rights had received hundreds of complaints related to these events, which had not yet been investigated. She reported arbitrary use of force and arbitrary arrests on the part of the militia and the army and claimed that procedural guarantees had been violated in a number of judicial proceedings.

Mr. Khlestov, summing up the discussion, said that all those who had addressed the panel were concerned with the perfection of human rights in the USSR. While this was justified and understandable, it would be wrong to say that nothing was being done to remedy past grievances, and he recalled the two major mechanisms available under Soviet law to improve the situation: (*a*) to bring existing legislation into line with international standards—the preparation of a new law on the judicial system was a promising step in the right direction; and (*b*) to invoke the primacy of international norms over conflicting domestic norms.

Round table discussion of 30 November 1989

On 30 November 1989, the editors of the journal *Young Communist* and Mr. Kolossov of the State Institute for International Relations organized a round table discussion for the panellists. The following are highlights from the discussion.

The panel was asked which group of rights it considered to be more important: civil and political or economic, social and cultural rights. Mr. Eide replied that both complexes were interdependent. Their interdependence was aptly circumscribed by the adage: "A man in need is not a free man".

One participant asked about the extent to which universally recognized human rights could be restricted via national legislation. In reply, Mr. Eide pointed out that some rights (for example freedom from torture) could not be restricted under any condition. Mr. Tomuschat cautioned that the "interest of the State" should only be invoked as justification for the limitation of rights in exceptional circumstances. Mr. de Zayas added that with respect to the rights enshrined in the International Covenant on Civil and Political Rights, article 4 provides for the possibility of derogation in times of "public emergency which threatens the life of the nation", but no State may derogate from its Covenant obligations under articles 6 (right to life), 7 (prohibition of torture), 8 (prohibition of slavery), 11 (prohibition of imprisonment for debt), 15 (*nulla poena sine lege*), 16 (right to recognition as a person before the law), or 18 (freedom of religion). Derogation is possible, for instance, from the guarantee of the right of freedom of expression (article 19) or to freedom of peaceful assembly (article 21). Various States have made use of their right of derogation under article 4 and so informed the Human Rights Committee. Apart from derogation, the Covenant allows restrictions in the enjoyment of certain rights for reasons specified therein. For instance, the freedom to manifest one's religion or belief (article 18), which is not subject to derogation, may be restricted "to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". The exercise of the right to freedom of expression may be subject to limitations as are provided by law and are necessary for the respect of the rights or reputations of others, or "for the protection of national security or public order (*ordre public*) or for public health and morals". Similar restrictive clauses are provided for with regard to the right to freedom of movement (article 12), the right to peaceful assembly (article 21) and the right of association (article 22). In numerous cases before the Committee authors have claimed a violation of their rights, and States parties have replied that the restrictions at issue were justified for reasons specified in the Covenant.

Mr. Kolossov remarked that the question of the limitation of human rights was of great importance in the USSR. Such exceptions as might be

made to the rights contained in the Universal Declaration should be established by law.

In reply to a question about the extent to which the rights to freedom of conscience and freedom of speech had been realized in the USSR, Mr. Pocar acknowledged that there had been major improvements in this particular area, especially for the church,[1] but newly acquired freedoms now had to be matched by new laws, for example the new law on the press.

Concerning the right to freedom of association, Mr. Eide noted that in many Western European countries, it was not necessary to register an association, as it was in the USSR. This merely underscored the essential nature of this right. Asked whether political parties were encompassed by the notion of "association", Mr. Tomuschat pointed out that article 22 of the International Covenant on Civil and Political Rights did not contain any restrictions as to the permissible aims of associations. It therefore had to be assumed that the provision also protected associations with political aims, including political parties.

Asked about the realization of the right to freedom of movement and choice of residence, Mrs. Higgins admitted that it was difficult to establish whether the limitation practice of the USSR in this area was compatible with the limitations permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights. She did not believe that they were. Thus, the five-year rule in the new legislation on freedom of exit and entry did not appear to be compatible with article 12, paragraph 1. Nor were other practices, such as the requirement of payment of a fee to travel abroad, or the requirement of express consent of one's family to travel abroad. Mr. Johnson stressed that the practice of the USSR in respect of the right to freedom of movement had been an unnecessary irritant between the USSR and the United States of America in the past, but a good deal of progress was now being made in this area.

On a concluding note, Mr. Eide remarked that the year 1989 could well turn out to be more important than the year 1789, the year of the French Revolution whose bicentenary had just been celebrated, since the long-standing ideological confrontation in the field of human rights between East and West had finally been overcome.

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[1] It is noteworthy that on 1 December 1989, Mr. Gorbachev and Pope John Paul II re-established diplomatic relations between the USSR and the Holy See.

V. International standards in the field of civil and political rights

Mrs. C. Chanet (Member, Human Rights Committee and Committee against Torture) and Mr. Agha Shahi (Member, Committee on the Elimination of Racial Discrimination) addressed the issues of freedom of movement, freedom of conscience and religion, freedom of peaceful assembly and freedom of association. The legal basis for these freedoms were articles 12, 13, 18, 21 and 22 of the International Covenant on Civil and Political Rights. The scope of these rights had been clarified by the jurisprudence of the Human Rights Committee and the European Court of Human Rights in respect of the provisions of the European Convention on Human Rights, which contains guarantees similar to those of the International Covenant on Civil and Political Rights.

With respect to the right to freedom of movement (articles 12 and 13), the speakers referred to the jurisprudence of the Human Rights Committee. In a number of cases, the Committee had found a violation of article 12, paragraph 1, because the victims had been subjected to measures of administrative banishment for a prolonged period and had thus been deprived of their freedom of movement. There had also been several cases raising issues under article 12, paragraph 2, concerning the right to leave any country, including one's own, and the question as to how a refusal to issue a passport to a citizen could affect the exercise of that right, cases where the Committee had found violations of the paragraph. With respect to the situation of aliens under the Covenant, covered by article 13, Mr. Shahi argued that the provision did not cover the collective expulsion of a large number of aliens lawfully on the territory of a State party.

In respect of the right to freedom of conscience and religion (article 18, International Covenant on Civil and Political Rights), it was pointed out that this right could not be subject to derogation in times of public emergency. Article 18 covered both believers and non-believers. Mrs. Chanet pointed out that while the Human Rights Committee's jurisprudence on the issue of freedom of conscience and religion was limited, it had nonetheless addressed important questions. Thus, in one case, the Committee had found that an obligatory alternative to religious instruction at school, which public schools in a country offered to students whose parents and guardians were non-believers, was not in itself incompatible with the Covenant, if such alternative instruction was dispensed in a neutral and objective way and re-

spected their convictions. In another case, the Committee had held that the right to conscientious objection to military service was not covered by article 18 of the Covenant. Mr. Shahi added that the terms of article 18 ("thought", "conscience") had to be construed in the widest possible sense and expressed the hope that new Soviet legislation would do away with the obstacles to religious education of believers.

Concerning the right to freedom of association, both speakers touched upon the question whether article 22 of the Covenant protected the right to strike. This question had been answered in the negative by the Human Rights Committee in a landmark decision concerning a case brought against Canada, in which it had held that it could not be deduced "from the *travaux préparatoires* that the drafters of the Covenant on Civil and Political Rights intended to guarantee the right to strike".[2] An important Committee minority had, however, formulated a dissenting opinion and supported the view that the right to strike was encompassed by article 22.

Some common rules governing any limitation of the above-mentioned rights had to be observed by all States. These were (*a*) that the limitation was necessary; (*b*) that the limitation had to be governed by law; (*c*) that the limitation must be proportional in its scope to the aim of the restrictive measure; and (*d*) that the limitation had a legitimate reason.

Pointing to perceived lacunae in the Committee's procedure under the Optional Protocol, Mr. Shahi regretted that the Committee had no independent fact-finding machinery and that, in its final views, it did not always recommend a specific remedy to be made available by the State party to the victim of a violation of the Covenant. Moreover, the Committee's views were not enforceable, and it sometimes remained unknown whether the Committee's judgements on the merits were complied with by States parties. It was therefore desirable to provide for some form of "follow-up" machinery, and it was gratifying to note that the Committee was now considering a variety of proposals concerning "follow-up" action. On the whole, however, the Committee's procedure was a successful one—and the fact that the Committee had found a violation of the Covenant in 85 of the 100 final decisions on the merits it had adopted testified to its vigorous interpretation of the Covenant.

Mr. B. Nazarov (USSR Juridical Institute) argued for a strengthening of State responsibility in the field of human rights implementation. It was necessary to proceed from a basis of "power of authority" and not from the basis of "authority of power". In the Soviet Union, there remained a wide gap between proclamation of human rights and their day-to-day implementation. Under the aegis of the Communist Party of the Soviet Union, a Work-

[2] Communication No. 118/1982 (J. B. *et al v.* Canada), Committee decision of 18 July 1986, paragraph 6.3.

ing Group had been formed with the mandate to draft a uniform Human Rights Code. This was a welcome step at the national level. At the international level, Mr. Nazarov advocated the creation of a comprehensive universal mechanism designed to guarantee observance of human rights. Since ideological confrontation in the field of human rights had been overcome, international co-operation toward this end should be possible.

Discussion

In the course of the discussion, several participants complained of the generally low level of protection of civil and political rights in the Soviet Union. While the country's economic situation made it generally difficult to enjoy economic and social rights, current attempts at reforming the political system were not "filtering down" as quickly as was desirable.

One participant argued that the universal approach to the protection of the rights of ethnic minorities was ineffective, and that international rules governing the protection of minorities were in need of revision. This legal vacuum was all the more serious considering the serious difficulties faced by ethnic minorities in the Soviet Union. These points were echoed by several other speakers.

Another participant complained that there still were people in the Soviet Union either confined to psychiatric institutions or subjected to psychiatric abuse. He explained that many workers in his place of work had no knowledge of their rights, and of the relevant legislation.

A participant stressed the importance of the teaching of international norms and standards in the field of human rights in the education process. In the universities, the curricula set aside four times as many lecture hours on Marxist-Leninist theory and doctrine as on all other socio-political doctrines taken together. There was little if any freedom of choice in respect of the curriculum.

Another participant stressed the importance of the right to leave any country, including one's own, and of the right to return. He reviewed changes in relevant Soviet legislation in recent years and criticized the limitations to the right to leave still in force in the USSR today.

Mr. Pocar, analysing the previous interventions, thought that four major problem areas could be distilled from them: first, it appeared that the question of protection of minorities in the Soviet Union had not been solved. He acknowledged the intricacy of the problems involved and pointed to the discussions in the United Nations Working Group on Minorities and its difficulties in agreeing on a definition of the term "minorities". Secondly, there was the problem of the treatment of mentally ill and detained individuals—it was clear that one should not take away fundamental rights from sick or de-

tained people. Thirdly, the role of the legal profession in the protection of human rights was crucial. Finally, the right to education, protected by various international instruments, was of primary importance in the human rights context.

Mr. Khlestov agreed with previous speakers that the authorities must not abuse their power, and added that the suggestion of one participant to prepare a handbook of "proper behaviour" for the militia was worth considering. He welcomed the open debate that had characterized the training course's working sessions, and, while expressing satisfaction at the active participation of non-governmental organizations, regretted the "sometimes biased and one-sided" nature of the comments of several non-governmental organization representatives.

VI. International protection of refugees' rights and protection of human rights in non-international conflict

Mr. G. Arnaout (President, Commission on the Protection of Refugees) underlined that recent political changes in Eastern Europe were a source of great satisfaction and encouragement for the Office of the United Nations High Commissioner for Refugees. Still, there was an urgent need to reconsider and develop refugee law in a number of areas which had been neglected in the past, in particular in the areas of interstate relations and the responsibilities of the country of origin of refugees.

Mr. Arnaout stressed the importance of confidence-building measures in the field of development of refugee law. Trans-boundary population movements could only be examined and addressed satisfactorily if there were solidarity, encouragement of repatriation and effective control of arms traffic.

While it was clear that the circumstances under which the 1951 Convention relating to the Status of Refugees had been adopted no longer prevailed, the updating of conventional refugee law presented major problems. For example, efforts to adopt a Convention on territorial asylum had not led to any agreement on a convention text. Nonetheless, regardless of the provisions of refugee instruments of the past, general rules of international law and human rights law applied to the situation of refugees.

Mr. Arnaout pointed out that in a growing number of instances, refugees were not granted any status, be it refugee or any other status, by the Government concerned, and were merely tolerated as non-persons. This major problem called for international co-operation and not unilateral solutions—if refugees were not granted any status, they were frequently subject to exploitation or racial antagonism.

Standard-setting was required with respect to the status of refugees and asylum-seekers, particularly the latter. Any new instrument should take into consideration that the most acceptable solution for the vast majority of refugees was the possibility to return to their country of origin in safety. Exile, whether temporary or permanent, could never be a satisfactory solution from a human rights perspective, but repatriation should be truly voluntary and with guarantees of safety and dignity.

Finally, Mr. Arnaout defended the working methods of the Office of the United Nations High Commissioner for Refugees, which had come under criticism in the recent past. The field offices of the UNHCR in many countries dealt with the host Governments directly and negotiated directly with them on a variety of issues, including voluntary repatriation of refugees.

Mr. Blishenko (Patrice Lumumba University, Moscow) discussed humanitarian and refugee issues in the context of East-West relations. He contended that the regular practice of United States embassies and consulates in respect of which Soviet citizens were accepted as "refugees" was selective. In his opinion, the United States used the refugee issue as a means of bringing about some form of brain drain, as it was unwilling to accept any Soviet citizens without some professional qualifications or skills. The United States was not the only Western country to use criteria which were, or should be, irrelevant in respect of the acceptance of refugees. Mr. Blishenko criticized the quota system operated by a number of Western countries in their refugee acceptance policy. He further argued that the refugee problem was linked to that of humanitarian help, for example in instances of famine on the African continent. This problem could only be solved through joint international action.

Like Mr. Arnaout, Mr. Blishenko underlined the need for a convention on territorial asylum. Moreover, since many refugees were driven out of their country for fear of persecution because of their religion, beliefs or conscience, it was necessary to adopt a convention on freedom of religion and other convictions.

Mr. Y. Sandoz (President, Commission on Humanitarian Law) addressed issues of humanitarian protection in non-international conflict. Strict respect of humanitarian law meant facilitating the return to peace. Mr. Sandoz conceded that humanitarian protection in cases of internal armed conflicts was deficient in comparison to such protection in instances of international conflict. While this was understandable for some forms of protection, it was less so in respect of the prohibition of the use of force and the non-coverage of certain types of weapons. The Second Geneva Protocol of 1977 provided for some protection but was no panacea.

For the time being, in cases of internal conflict, the sanction of the use of force in cases of internal conflict was governed by the criminal laws of the country in question. Nonetheless, prisoners benefited from a number of universally recognized guarantees, such as the prohibition of torture and the right to due process. Pointing to the experience of a number of countries affected by internal armed conflict in the recent past, Mr. Sandoz suggested that it was desirable to promulgate amnesties at the conclusion of the hostilities, as a means of internal pacification.

Discussion

In reply to the points raised by Mr. Blishenko, Mr. Johnson noted that the United States had been more generous over the past 45 years in terms of refugee admissions and financial support of refugee programmes than other countries, but that every country retains a right to control immigration and cannot be expected to accommodate unlimited numbers of refugees generated in many cases by foreign military aggression against the refugees' countries of origin. The relevant international refugee instruments did not grant to refugees an absolute right to entry into any country of their choice. Moreover, it was wrong to equate refugees as defined under the applicable international instruments with economic migrants, and many who claimed refugee status in Western countries really belonged in the latter category. Mr. Johnson regretted that the USSR did not contribute anything to the work of the United Nations High Commissioner for Refugees or other refugee assistance programmes. Regarding Mr. Blishenko's proposal for an international convention on religion, Mr. Johnson outlined the reasons why this idea, although commendable in theory, would be unwise and counterproductive in practice.

Mr. Blishenko reiterated the need for an international monitoring mechanism of humanitarian problems, and urged that some countries should not use the problems of others to engage in brain-drain practices. He agreed that the USSR should have joined the Office of the High Commissioner for Refugees and its Executive Committee, but stressed that it was wrong to argue that the USSR did not contribute to United Nations refugee programmes.

Closing session

Mrs. H. Klein-Bidmon, speaking on behalf of Mr. Martenson, Under-Secretary-General for Human Rights, underlined the usefulness of the training course in a period of considerable change in the USSR. It was possible to distil a number of conclusions from the debates.

It was commonly perceived that the international community had registered some of its greatest successes in the field of human rights, and that the existing conventions in that field were the harvest of the seeds sown by the Universal Declaration of Human Rights in 1948.

It was imperative that the drafting of new instruments be in keeping with the high standards of the drafting that characterized the existing documents. At the same time, any weakening or any dilution of these documents had to be avoided, and there was a common perception that the existing monitoring mechanisms must be perfected. Concerning the latter aspect, the procedures established under the International Covenant on Civil and Political Rights and implemented by the Human Rights Committee deserved particular attention. It was pointed out that the Human Rights Committee had the potential of becoming, one day, a true International Court of Human Rights with the power to hand down binding judgements: this was an idea which might usefully be discussed at the proposed 1993 world conference on human rights, preparations for which had just begun in the General Assembly.

Mrs. Klein-Bidmon recalled what many speakers had emphasized in the course of the week—that strong *national* instruments would be the most effective bulwark against human rights violations. In this context, the advisory services and technical assistance programme in the field of human rights, actively promoted by the Centre for Human Rights, was of particular importance, as was the recognition of a triangular relationship between the notions of legislation, implementation and information.

Finally, it was a source of satisfaction to review the important changes that were taking place in the human rights area in the USSR, changes which had been highlighted by a number of panellists. One additional and highly desirable step ahead would be the ratification by the Soviet Union of the Optional Protocol to the International Covenant on Civil and Political Rights, which was currently under consideration.

Mr. Kolossov underlined that the seminar had been characterized by a spirit of openness, and expressed his hope that co-operation between the organizers and the Centre for Human Rights would continue to prosper. It was

equally important to provide a forum for public organizations and to continue the dialogue, both at the international level with the United Nations Secretariat, and at the domestic level with Soviet citizens of all strata of society.

ANNEXES

ANNEX I

Programme

of the Training Course on International Norms and Standards in the Field of Human Rights

Moscow, USSR, 27 November-1 December 1989

(Conference Hall of the State Institute of International Relations)

Organized by the United Nations Centre for Human Rights in co-operation with the United Nations Association of the USSR, Moscow State Institute for International Relations

Monday, 27 November

Morning OPENING SESSION

Official opening

Introduction by Mr. Jan Martenson
Under-Secretary-General for Human Rights

WORKING SESSION I

I. The International System for the Protection and Promotion of Human Rights

Mr. C. Tomuschat
Member, International Law Commission
Mrs. H. Klein-Bidmon
International Instruments Section
Centre for Human Rights

II. International Human Rights Standards and their Application in National Legislation: Issues and Tasks

Mr. F. Pocar
Rapporteur, Human Rights Committee
Mr. V. Kartashkine
Institute of State and Law
Soviet Academy of Sciences
Mr. Thomas A. Johnson
Counsellor for Legal Affairs
United States Mission, Geneva

Afternoon DISCUSSION

Tuesday, 28 November

Morning WORKING SESSION II

III. International Monitoring of Compliance with Obligations of States for the Implementation of Human Rights Instruments

Mrs. R. Higgins
Member, Human Rights Committee
Mr. R. Myullerson
Member, Human Rights Committee
Mr. V. Kuznetsov
Member, Committee on Economic, Social and Cultural Rights
Discussion

Afternoon DISCUSSION

Wednesday, 29 November

Morning WORKING SESSION III

IV. International Law and Mechanism of Protection of the Rights of Persons at the National Level

Mr. A. Eide
Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities
Mr. S. Chemichenko
Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities
Discussion

Afternoon DISCUSSION

Thursday, 30 November

Round table discussion organized by the *Young Communist* and the State Institute for International Relations

Morning WORKING SESSION IV

V. International Standards in the Field of Civil and Political Rights (the right to liberty of movement; the right to freedom of thought, conscience and religion; the right to strike and to peaceful assembly)

Mrs. C. Chanet
Member, Human Rights Committee
Mr. A. Shahi
Member, Committee on the Elimination of Racial Discrimination
Mr. Y. Reshetov
Member, Committee on the Elimination of Racial Discrimination
Mr. B. Nazarov
Professor, USSR Juridical Institute
Discussion

Afternoon WORKING SESSION V

Discussion (*continuation*)

Friday, 1 December

Morning WORKING SESSION VI

VI. International Protection of Refugees' Rights

Dr. Ghassan Arnaout
President, Commission on the Protection of Refugees
International Institute of Humanitarian Law

Protection of Human Rights in Non-international Conflict

Dr. Yves Sandoz
President, Commission on Humanitarian Law
International Institute of Humanitarian Law
Discussion

CLOSING SESSION AND CONCLUDING REMARKS

Mr. J. Martenson
Mr. J. Kolossov
Chief, Chair of International Law
Moscow State Institute of International Relations

ANNEX II

List of participants

Mr. Ghassan ARNAOUT (Syria)	President, Commission on the Protection of Refugees, International Institute of Humanitarian Law
Mr. BLISHENKO (USSR)	Patrice Lumumba University, Moscow
Mrs. Christine CHANET (France)	Member, Human Rights Committee
Mr. S. CHERNICHENKO (USSR)	Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities
Mr. Asbjorn EIDE (Norway)	Member, Sub-Commission on Prevention of Discrimination and Protection of Minorities
Mrs. Rosalyn HIGGINS (Great Britain)	Member, Human Rights Committee
Mr. Thomas A. JOHNSON (USA)	Counsellor for Legal Affairs, US Mission, Geneva
Mr. V. KARTASHKINE (USSR)	Senior Researcher, Institute of State and Law, Academy of Sciences, USSR
Mr. Y. KASHLEV (USSR)	First Assistant to the Deputy Foreign Minister of the USSR
Mr. O. KHLESTOV (USSR)	Vice-Chairman, United Nations Association of the USSR
Mrs. H. KLEIN-BIDMON (United Nations)	International Instruments Section, Centre for Human Rights
Mr. Y. KOLOSSOV (USSR)	Chief, Chair of International Law, Moscow State Institute for International Relations
Mr. KOMPLEKTOV (USSR)	Deputy Minister of Foreign Affairs of the USSR
Mr. Jan MARTENSON (United Nations)	Director-General and Under-Secretary-General for Human Rights
Mr. R. MYULLERSON (USSR)	Member, Human Rights Committee
Mr. B. L. NAZAROV (USSR)	Chief, Chair of Human Rights, Juridical Institute of the USSR, Moscow
Mr. R. S. OVINNIKOV (USSR)	Rector, Moscow State Institute for International Relations
Mr. Fausto POCAR (Italy)	Vice-Chairman, Human Rights Committee
Mr. Yves SANDOZ (Switzerland)	President, Commission on Humanitarian Law, International Institute of Humanitarian Law

Mr. Agha SHAHI (Pakistan)	Member, Committee on the Elimination of Racial Discrimination
Mr. Christian TOMUSCHAT (FRG)	Member, International Law Commission
Mr. A. de ZAYAS (USA)	Communications Section, Centre for Human Rights

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Printed at United Nations, Geneva
GE.90-17784
December 1990–9,760

United Nations publication
HR/PUB/90/6